

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FRANK VASQUEZ,

Plaintiff,

v.

D. MANER, et al.,

Defendants.

No. 1:24-cv-00862-JLT-SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CLAIMS AND DEFENDANTS**

(Doc. 12)

Plaintiff seeks to hold defendants liable for violations of his civil rights while incarcerated at Wasco State Prison. (Doc. 11.) The magistrate judge screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a) and found Plaintiff stated a cognizable claim for excessive force against Defendant D. Maner. (Doc. 9.) However, the magistrate judge found Plaintiff failed to state cognizable claims against any other named defendant. (*Id.*) The magistrate judge granted Plaintiff leave to amend, or indicated he may notify the Court of his willingness to proceed on the cognizable claim. (*Id.*) In response, Plaintiff indicated he was willing to proceed only on the cognizable claim. (Doc. 10.)

Based upon Plaintiff's response, the magistrate judge recommended: (1) this action proceed only on Plaintiff's excessive force claim against Defendant Maner and all other claims and Defendants be dismissed from the action. (Doc. 12) The Court served the Findings and

1 Recommendations on Plaintiff and notified him that any objections were due within 14 days.
2 (*Id.*) The Court advised him the “[f]ailure to file objections within the specified time may result in
3 the waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir.
4 2014).) Plaintiff did not file objections, and the time to do so has passed.

5 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
6 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
7 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 8 1. The Findings and Recommendations issued on October 1, 2024 (Doc. 12) are
9 **ADOPTED** in full.
- 10 2. This action **SHALL** proceed only on Plaintiff’s excessive force claim against
11 Defendant D. Maner.
- 12 3. All other claims in Plaintiff’s complaint are **DISMISSED**.
- 13 4. Defendant Heather Shirley is **DISMISSED**.
- 14 5. The matter is referred to the magistrate judge for further proceedings.

15 IT IS SO ORDERED.

16 Dated: **October 25, 2024**


UNITED STATES DISTRICT JUDGE